



AUG 04 2009

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In re Application of Bauer et al.

Appl. No. 10/807,088
Filed: March 23, 2004
For: BODY STATE ESTIMATION OF A VEHICLE

PETITION TO WITHDRAWN RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on Applicant's Petition under 37 CFR 1.144 filed on April 21, 2009 to withdrawn the Restriction Requirement within Office Action dated August 01, 2008.

The Petition is **GRANTED**.

DISCUSSION

Restriction Requirement was made in Office action dated August 01, 2008 under 35 USC 121 between two inventions:

Group I: Claims 1-3, 5, 7, 9, 11 are drawn to a system for estimating body states of a vehicle comprising, classified in class 701/4, 38.

Group II: Claims 18-24 are drawn to a system for estimating body states of a vehicle comprising, classified in class 702/141, 142, 145, 147, 158.

The restriction requirement indicated that:

Inventions (I) and (II) are directed to related inventions. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.050). In the instant case, the inventions as claimed have a materially different design, mode of operation, function, or effect. That is the filter in invention (II) has a materially different design, mode of

operation, function, or effect as compared to the filter in invention (I). Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

The petitioner argued that:

The Restriction Requirement is improper. The inventions of independent claims 1 and 18 are connected in at least one of design, operation, or effect. The inventions are connected in all three of design, operation, and effect.

Inventions (I) and (II) are connected in design. Each of the independent claims of Inventions (I) and (II), claims 1 and 18, is directed toward a system for estimating body states of a vehicle. Both claims recite a first linear accelerator and a second linear accelerometer mounted to the vehicle in separate locations from each other, the first and second linear accelerometers being configured to measure the acceleration of the vehicle in a first direction and generate measured first and second linear acceleration signals based on the acceleration of the vehicle in the first direction, the measured first and second linear acceleration signals defining a first set of linear acceleration signals. In addition, both claims recite a third linear accelerometer and a fourth linear accelerometer mounted to the vehicle in separate locations from each other, the third and fourth linear accelerometers being configured to measure acceleration of the vehicle in a second direction and generate measured third and fourth linear acceleration signals based on the acceleration of the vehicle in the second direction, wherein the second direction is different from the first direction, the measured third and fourth linear acceleration signals defining a second set of linear acceleration signals. Furthermore, both claims recite a filter configured to process the first and second set of linear acceleration signals to obtain at least one of a roll rate, a roll angle, and a yaw rate.

Essentially, Invention (II) is substantially similar to Invention (I), except that Invention (II) gives more details about the model that the filter uses to generate at least one of the roll angle, the roll rate, and the yaw rate. These additional details are found in the specification as originally filed. However, since Invention (II) is connected to Invention (I) in design, operation, and effect, and only one of these connections is required to show that a restriction requirement is improper, the present restriction requirement should be withdrawn.

Accordingly, the Petitioner's arguments have been found to be persuasive. The Restriction Requirement filed on August 01, 2008 is hereby withdrawn. Claims 18 to 30 are reinstated and will be subsequently examined along with the other previously examined claims. The appeal will be withdrawn and a non-final office action will be issued in response to the filed Appeal Brief on June 22, 2009 to address newly considered claims 18-30, and previously examined claims.

SUMMARY: The Petition is **GRANTED**.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Khoi Tran at (571) 272-6919.

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